

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On August 27, 2007, the defendant filed a motion for summary judgment. On August 28, 2007, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff elected not to respond to the motion.

In addition, by order of this court filed September 7, 2007, the plaintiff was given through September 28, 2007, to serve the defendant with his responses to the defendant's discovery requests. The plaintiff was specifically advised that if he failed to serve his responses, this action would be subject to dismissal for failure to participate in discovery pursuant to order under Federal Rule of Civil Procedure 37(b)(2) and failure to prosecute pursuant to Rule 41(b). The plaintiff failed to comply with this order.

As the plaintiff is proceeding *pro se*, the court filed a second order on October 3, 2007, giving the plaintiff through October 29, 2007, to both file his response to the motion for summary judgment and serve the defendant with responses to the discovery

requests. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff elected not to respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

s/William M. Catoe
United States Magistrate Judge

November 1, 2007

Greenville, South Carolina